

Decision No. 24866.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

In the Matter of the Application of EAST BAY MOTOR COACH LINES, LTD., a corporation, for authority to install and operate two motor coach lines in the County of Contra Costa, State of California.

Application No. 18164.

In the Matter of the Application of EAST BAY STREET RAILWAYS, LTD., a corporation, for an order authorizing it to abandon its No. 28 and No. 29 lines in the County of Contra Costa, State of California.

Application No. 18165.

Brobeck, Phleger and Harrison and Chapman,
Trefethen, Richards and Chapman, by
Frank S. Richards, for applicants.
Thomas M. Carlson, for the City of Richmond.
James E. Long, for the Board of Supervisors
of Contra Costa County.

SEAVEY, COMMISSIONER:

O P I N I O N

In Application No. 18164, East Bay Motor Coach Lines, Ltd., requests permission to install and operate motor coach lines generally along 23rd Street and Barrett Avenue, and reaching the business district of Richmond by way of Macdonald Avenue. The specific routes will be hereinafter described. In Application No. 18165, East Bay Street Railways, Ltd., requests permission to abandon the operations on its No. 28 (6th Street) line and on its No. 29 (23rd and Macdonald) line, as hereinafter described.

A public hearing was held in Richmond on June 7th, 1932.

Prior to the filing of these applications, the Special Transportation Committee of the Chamber of Commerce of Richmond made a survey of the local transportation needs of the city. The

report of the Transportation Committee was entered as Exhibit No. 1 in these proceedings. The street car abandonments and the proposed bus line installations as prayed for in these proceedings were recommended by this Committee.

The No. 28 (6th Street) line operates on 8th Street, 6th Street, Ohio Street and 14th Street and crossing Macdonald Avenue, the main business street of the city, and has a total length of 2.26 miles. The total receipt for this line for the year of 1931 amounted to \$991.67, or 2.97 cents per car mile, whereas the actual out-of-pocket (excluding interest and depreciation) operating cost per car mile amounted to 27.37 cents. A traffic check on this line indicates that an average of 28 passengers are carried per day, or an average of 1.075 passengers per trip (Exhibit No. 3). There is no proposal to substitute bus service in this particular section of the city if authority is granted to discontinue this street car line. It appears, however, from the results of operation that public convenience and necessity do not justify the continuance of this service.

The No. 29 (23rd Street and Macdonald Avenue) line operates from San Pablo Avenue along Macdonald Avenue, 23rd Street and Market Street to Church Lane, adjacent to the town of San Pablo. This line serves the Richmond High School located on 23rd Street near Market Street. The total receipts for the calendar year of 1931 amounted to \$7,449., or 8.3 cents per car mile, whereas the out-of-pocket operating cost amounted to 27.37 cents per car mile, or a loss of 19.07 cents per car mile. The heaviest traffic on the line is in the morning and evening of the school year. During the remainder of the day the traffic is very light.

In lieu of the operations on 23rd Street, it is proposed by the Coach Company to operate a bus line along Macdonald Avenue

and 23rd Street, from 10th Street to Market Street during the morning and evening peak hours only, thus eliminating all service along Market Street. It appears that the traffic developed along 23rd Street at this time does not justify the continued operation of off-peak service, but it is to be distinctly understood that if in the future public convenience requires additional service, as a result of development in this section or for any other reasons, adequate transportation service will be provided.

It is proposed by the Coach Company to inaugurate bus service along Macdonald Avenue, 23rd Street and Barrett Street from 10th Street to the built-up section east of San Pablo Avenue, and in the vicinity of the easterly end of Barrett Street. This route will be approximately two blocks north of Macdonald Avenue and parallel thereto. This motor bus line is offered as a substitute for the street car service on Macdonald Avenue between San Pablo Avenue and 23rd Street.

It appears that the proposed motor bus lines will better serve the district than the No. 29 street car line, as patrons can reach 10th Street and Macdonald Avenue without transfer. Under present conditions transfer must be made at the intersection of 23rd Street and Macdonald Avenue to the Richmond line which runs west along Macdonald Avenue, through the business district in the vicinity of 10th Street.

Objection was raised to the abandonment of service along Market Street by the representative of the Board of Supervisors of Contra Costa County on the ground that the people residing in the vicinity of Market Street and Church Lane (Town of San Pablo) would be without transportation. The record shows that the amount of use that is made of this part of the line does not justify the continuance of a transportation line along Market Street.

It appears, after a review of the record, that it is

doubtful if the carrying out of the changes proposed herein will result in a profitable operation, but it is apparent that, through the effecting of the proposed changes in operation, the operating losses will be materially reduced.

East Bay Motor Coach Lines, Ltd. is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the State which is not in any respect limited to the number of rights which may be given.

The following form of order is recommended granting the applications.

O R D E R

A public hearing having been held and the matter having been submitted;

IT IS HEREBY ORDERED that East Bay Street Railways, Ltd., be and it is hereby authorized to abandon:

I. Its No. 28 (6th Street) Line, in the City of Richmond, County of Contra Costa, and described as follows:

Commencing at Cutting Boulevard and 14th Street, in the City of Richmond, running thence along 14th Street to Ohio Avenue, thence along Ohio Avenue to 6th Street, thence along 6th Street to Barrett Avenue, thence along Barrett Avenue to 8th Street, thence along 8th Street to a point north of Lincoln Avenue and return via 8th Street to Barrett Avenue, thence along Barrett Avenue to 6th Street, thence along 6th Street to Ohio Street, thence along Ohio Street to 1st Street and return along Ohio Street to 14th Street, thence along 14th Street to Cutting Boulevard.

II. Its No. 29 (23rd & Macdonald) Line, in the City of Richmond and in the County of Contra Costa and described as follows:

Commencing at San Pablo Avenue and Macdonald Avenue, City of Richmond, running thence along Macdonald Avenue to 23rd Street, thence along 23rd Street to Market Street, thence along Market Street to Church Lane and return via the same route.

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by East Bay Motor Coach Lines, Ltd. of automotive stage service for the transportation of passengers and serving the following named termini and all intermediate points over the following described routes:

- A. Commencing at 10th Street and Macdonald Avenue, City of Richmond, thence along Macdonald Avenue to 23rd Street, thence along 23rd Street to Barrett Avenue, thence along Barrett Avenue to Tuller Avenue, returning along Tuller Avenue to Silvia Avenue, thence along Silvia Avenue to Mount Avenue, thence along Mount Avenue to Barrett Avenue, thence along Barrett Avenue to the point of beginning in the City of Richmond.
- B. Commencing at 10th Street and Macdonald Avenue, City of Richmond, thence along Macdonald Avenue to 23rd Street, thence along 23rd Street to Market Street, in the County of Contra Costa, and return via same route.

IT IS HEREBY FURTHER ORDERED that a certificate of public convenience and necessity for such service be and the same is hereby granted to East Bay Motor Coach Lines, Ltd., subject to the following conditions:

- (1) Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
- (2) Applicant shall file in duplicate and make effective within a period of not to exceed thirty (30) days from the date hereof, on not less than ten (10) days' notice to the Commission and the public, a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be identical with the rates and rules as now in effect on said street car lines of East Bay Street Railways, Ltd., hereinbefore authorized to be abandoned.

- (3) Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days from the date hereof, on not less than five (5) days' notice to the Commission and the public, time schedules, according to form provided in General Order No. 83, covering the service herein authorized, in a form satisfactory to the Railroad Commission.
- (4) The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.
- (5) No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.
- (6) Said service herein authorized shall be established concurrently with the abandonment of street car service by East Bay Street Railways, Ltd., as hereinbefore authorized.

For all other purposes the effective date of this order shall be ten (10) days from the date hereof.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of June, 1932.

W. C. Lewis
Leon Whitney
W. J. Con
W. B. Harris
Fred G. Stewart
Commissioners.